

MMB

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHESTER UPLAND SCHOOL DISTRICT; :
BOARD OF SCHOOL DIRECTORS OF THE :
CHESTER UPLAND SCHOOL DISTRICT; :
RESIDENT OF THE CHESTER UPLAND :
SCHOOL DISTRICT; WANDA MANN, :
TAXPAYER OF THE CHESTER UPLAND :
SCHOOL DISTRICT; E. W., PARENT OF :
SPECIAL EDUCATION STUDENT; and :
DELORES SHARP, PARENT OF REGULAR :
EDUCATION STUDENT :

NO. 12-

12

132

Plaintiffs

v.

COMMONWEALTH OF PENNSYLVANIA; :
DEPARTMENT OF EDUCATION OF THE :
COMMONWEALTH OF PENNSYLVANIA; :
RONALD TOMALIS, SECRETARY OF :
EDUCATION OF THE COMMONWEALTH :
OF PENNSYLVANIA; JOSEPH P. SCARNATI III, :
PRESIDENT PRO TEMPORE OF THE SENATE :
OF THE COMMONWEALTH OF :
PENNSYLVANIA IN HIS OFFICIAL CAPACITY;; :
SAMUEL H. SMITH, SPEAKER OF THE HOUSE :
OF REPRESENTATIVES OF THE :
COMMONWEALTH OF PENNSYLVANIA :
IN HIS OFFICIAL CAPACITY; TOM CORBETT, :
GOVERNOR OF THE COMMONWEALTH OF :
PENNSYLVANIA IN HIS OFFICIAL CAPACITY :

Defendants

ORDER

And now this _____ day of _____ 2012 upon Motion of the Plaintiffs for a Temporary Restraining Order, and after notice to the Defendant and review of the position of the respective parties it is hereby ORDER and DECREED that a Temporary Restraining Order is hereby issued as follows:

1. The Pennsylvania Department of Education and the Secretary of Education are hereby enjoined from withholding subsidies to the Chester Upland School District until further order of the Court.

2. The Department of Education and the Secretary of Education are hereby directed to make available to the Chester Upland School District funds by way of the return of the subsidies previously deducted for the School District during the 2011-12 school year, advance of subsidies to the school district for the 2011-12 school year or from other funds available to the Department of Education and the Secretary of Education in the amount of not less than Seven Million (\$7,000,000) Dollars ^{or 13,000,000} to provide funding for the operation of the school district during the months of January and February 2012 pending further hearings and Order of the Court. Such payments to be made on or before January 17, 2012 so that funds are available to the school district for payment of salaries and benefits on January 18, 2012. *including charter schools*

3. The Plaintiffs hereby excused from posting a bond in this matter.

J.



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OF THE CHESTER UPLAND SCHOOL
DISTRICT; E. W., PARENT OF SPECIAL
EDUCATION STUDENT and DELORES
SHARP, PARENT OF REGULAR
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COMMONWEALTH OF PENNSYLVANIA
IN HIS OFFICIAL CAPACITY; TOM CORBETT,
GOVERNOR OF THE COMMONWEALTH OF
PENNSYLVANIA IN HIS OFFICIAL CAPACITY:

Defendants

NO. 12-

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MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION OF THE PLAINTIFFS

The Plaintiffs, by their undersigned attorneys, hereby move this Honorable Court
to grant a Temporary Restraining Order and, after hearing, Preliminary Injunction
restraining the Department of Education and Secretary of Education from diverting

District by the Department of Education, and/or repaying to the School District such funds prior to January 18, 2012 and delaying recoupment of such funds until the end of the 2011-2012 fiscal year.

To enjoin the Department of Education and the Secretary of Education from withholding subsidies to the School District to make payments to charter schools or others which funds are necessary to maintain the operation of the schools of the School District, provide educational services to special education student and seniors in the School District, and to pay teachers and staff of the School District.

To enjoin the Commonwealth Defendants from reducing subsidy to the School District for the 2011-2012 school year in an amounts less than the subsidy provided to the School District for the 2010-2011 school year.

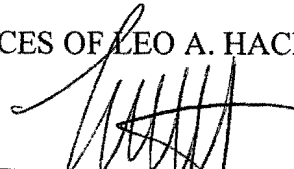
To enjoin the Commonwealth Defendants from making payment to charter schools for special education students by the School District in amounts greater than funding provided by the Commonwealth Defendants to the School District for the support of special education students in the District.

Movants incorporate herein the Memorandum of Law and Affidavits of Dr. Thomas Persing and Mr. Herbert Schectman filed with this Motion.

Respectfully submitted,

LAW OFFICES OF LEO A. HACKETT

BY: _____


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Attorney for Plaintiffs

MMB

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WANDA MANN, TAXPAYER AND RESIDENT :
OF THE CHESTER UPLAND SCHOOL :
DISTRICT; E. W., PARENT OF SPECIAL :
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IN HIS OFFICIAL CAPACITY; TOM CORBETT, :
GOVERNOR OF THE COMMONWEALTH OF :
PENNSYLVANIA IN HIS OFFICIAL CAPACITY :

Defendants

CERTIFICATE OF SERVICE


I, LEO A. HACKETT, Esquire, hereby certify that I did cause to be served a true and correct copy of the foregoing Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction and supporting Memorandum of Law, by first-class mail, postage prepaid, on the 12th day of January, 2012, upon the following parties:

Joseph M. Miller, Esquire
Chief Counsel
Pennsylvania Department of Education
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333

Stephen S. Aichele, Esquire
General Counsel
Governor's Office
225 Main Capitol Building
Harrisburg, PA 17120

Joseph P. Scarnati III
President Pro Tempora of the Senate
Commonwealth of Pennsylvania
Senate Box 203025
292 Main Capitol Building
Harrisburg, PA 17120

Honorable Samuel H. Smith
139 Main Capitol Building
PO Box 202066
Harrisburg, PA 17120-2066



LEO A. HACKETT, ESQUIRE
Attorney for Defendants

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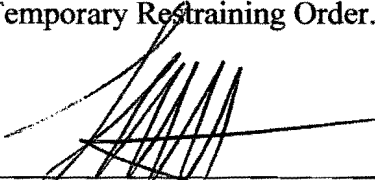
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DEPARTMENT OF EDUCATION OF THE
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Defendants

CERTIFICATE OF NOTICE

LEO A. HACKETT, ESQUIRE, Attorney for the Plaintiffs, does hereby certify that he gave notice, on January 12, 2012 at 10:45 AM, to Joseph Miller, Esquire, Chief Counsel of the Pennsylvania Department of Education and James Schultz, Assistant Chief Counsel for the Governor of Pennsylvania of the filing of the Complaint, Motion

for Temporary Restraining Order and Preliminary Injunction, Memorandum of Law, Affidavits, and Proposed Order as well as a request for contact information relating to a possible judicial meeting or hearing on the Motion for Temporary Restraining Order.



LEO A. HACKETT, ESQUIRE